

In re Application of:
Bevan et al.
Application No.: 10/539,377
Filed: January 18, 2006
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PATENT
Attorney Docket No.: SCRIP1600-1

Amendment to the Drawings:

The attached sheet of drawings show changes to Figures 1B, 7A, and 7B. More specifically, originally filed Figures 1B-1 and 1B-2 have been relabeled as Figures 1B and 1C; Figure 5 has been relabeled as Figures 5A and 5B; and Figures 7A and 7B have been relabeled as Figures 7A-7D. These replacement sheets replace the original sheets filed with the application.

Attachments: Replacement Sheets 1, 2, 6, and 8.

REMARKS

Claims 1-23 were pending prior to this Response with claims 3 and 5-23 having been withdrawn from further prosecution. By the present communication, claims 2 and 4 have been canceled without prejudice or disclaimer, new claims 24-29 have been added, and claim 1 has been amended to define Applicants' invention with greater particularity. Support for new claims 24-29 may be found, among others, at paragraphs [0069]-[0078] and [0098]-[0101] of the specification as filed. Accordingly, upon entry of this paper, claims 1, 2, and 4 will be under consideration.

Objections to the Drawings

Applicants respectfully traverse the objection to Figures 1B-1, 1B-2, 5, and 7, as allegedly failing to comply with 37 C.F.R. 1.84. Specifically, the Examiner alleges that partial views intended to form one complete view, on one or several sheets, must be identified by the same number followed by a capital letter. Without acquiescing to the reasoning offered by the Office, and in order to expedite prosecution of the instant application, Applicants have amended the figures as follows: Figures 1B-1 and 1B-2 have been relabeled as Figures 1B and 1C; Figure 5 has been relabeled as Figures 5A and 5B; and Figures 7A and 7B have been relabeled as Figures 7A-7D. In addition, the Brief Description of the amended figures has been amended accordingly. As such, Applicants respectfully request that the objections to the drawings be withdrawn.

Objections to the Specification

Applicants respectfully traverse the objection of paragraphs [0047] of the specification for allegedly containing an informality, as discussed on page 4 of the Office Action. Without acquiescing to the reasoning offered by the Office, and in order to expedite prosecution of the

instant application, Applicants have amended paragraph [0047] to remove the sequence identifiers therefrom, and request that the objection to the specification be withdrawn.

Objections to the Claims

Applicants respectfully traverse the objection of claim 2 for allegedly encompassing non-elected inventions. By the present communication, Applicants have canceled claim 2 without prejudice, rendering the objection moot. Withdrawal is respectfully requested.

Rejections under 35 U.S.C. §112, First Paragraph

Applicants respectfully traverse the rejection of claims 1, 2, and 4 under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Specifically, the Office Action alleges that since the specification fails to identify any particular portion of the structure of the ANKTM1-related polypeptide that must be conserved in order to provide for the recited function, the specification fails to meet the written description requirement with respect to the full scope of the claimed subject matter. Without acquiescing to the reasoning offered by the Office, and in order to expedite prosecution of the instant application, Applicants have amended claim 1 to a nucleic acid sequence encoding the polypeptide consisting of the amino acid as set forth in SEQ ID NO: 2. Accordingly, Applicants respectfully request withdrawal of the rejection.

Rejections under 35 U.S.C. § 102

Applicants respectfully traverse the rejection of claims 1, 2, and 4 under 35 U.S.C. § 102(b) as allegedly being anticipated by Jaquemar et al. (J. Biol. Chem. 274(11):7325-7333; hereinafter “Jaquemar”). To anticipate, a single reference must inherently or expressly teach each and every element of claimed invention. *In re Spada*, 15 USPQ2d 1655 (Fed Cir. 1990); and *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP § 2131.

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The Office Action alleges that Jacquemar discloses an isolated nucleic acid sequence that encodes a polypeptide that comprises an amino acid sequence that shares 100% sequence identity to SEQ ID NO: 2 of the instant application. Without acquiescing to the reasoning offered by the Office, and in order to expedite prosecution of the instant application, Applicants have amended claim 1 to a nucleic acid sequence encoding the polypeptide consisting of the amino acid as set forth in SEQ ID NO: 2. Accordingly, since Jacquemar fails to teach each and every limitation of the claims as amended, Applicants respectfully submit that Jacquemar fails to anticipate the claimed invention, and request withdrawal of the rejection.

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Conclusion

In view of the above amendments and remarks, reconsideration and favorable action on all claims are respectfully requested. In the event any matters remain to be resolved, the Examiner is requested to contact the undersigned at the telephone number given below so that a prompt disposition of this application can be achieved.

No fee is believed to be due in connection with the filing of this paper. However, the Commissioner is hereby authorized to charge any fees that may be required by this paper, or credit any overpayment to Deposit Account 07-1896 referencing the above-identified attorney docket number.

Respectfully submitted,



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